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**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA**

American Encore, an Arizona non-profit corporation; Karen Glennon, an Arizona individual; America First Policy Institute, a non-profit corporation,

Plaintiffs,

vs.

Adrian Fontes, in his official capacity as Arizona Secretary of State; Kris Mayes, in her official capacity as Arizona Attorney General; Katie Hobbs, in her official capacity as Governor of Arizona,

Defendants.

Case No.: 2:24-CV-01673-MTL

DECLARATION OF BRENNAN A.R. BOWEN

1 I, Brennan Bowen, declare as follows:

2 1. I am counsel of record for Plaintiffs American Encore, America First Policy
3 Institute, and Karen Glennon in this matter. I make this Declaration in this capacity and
4 in support of the Plaintiffs' Motion for Preliminary Injunction.

5 2. Except as otherwise stated, I make this Declaration based on my personal
6 knowledge as to the matters set forth herein.

7 3. After the 2022 general election, the Cochise County Board of Supervisors
8 refused to certify the election results for Cochise County in a timely manner, which
9 resulted in a delay of the Secretary's certification. *See* Jonathan J. Cooper, *Republican-*
10 *Controlled Arizona County Refuses To Certify 2022 Election*, Arizona PBS (Nov. 28,
11 2022) [https://www.pbs.org/newshour/politics/republican-controlled-arizona-county-](https://www.pbs.org/newshour/politics/republican-controlled-arizona-county-refuses-to-certify-2022-election)
12 [refuses-to-certify-2022-election](https://www.pbs.org/newshour/politics/republican-controlled-arizona-county-refuses-to-certify-2022-election) (attached hereto as Attachment 1).

13 4. However, the Cochise County Board eventually certified the results, and the
14 Secretary did as well. *See* Musadiq Bidar, *Last Arizona County Certifies Election Results*,
15 CBS News (Dec. 1, 2022) [https://www.cbsnews.com/news/2022-midterm-elections-](https://www.cbsnews.com/news/2022-midterm-elections-cochise-county-arizona-election-results-certification/)
16 [cochise-county-arizona-election-results-certification/](https://www.cbsnews.com/news/2022-midterm-elections-cochise-county-arizona-election-results-certification/) (attached hereto as Attachment 2).

17 5. Since then, the Arizona Attorney General has criminally indicted two of the
18 Cochise County Supervisors—Tom Crosby and Peggy Judd—for their role in delaying
19 the certification. *See* Jen Fifield, *Two Cochise County Supervisors Indicted For Refusing*
20 *To Certify Midterm Election*, Votebeat (Nov. 29 2023)
21 [https://www.votebeat.org/arizona/2023/11/29/arizona-cochise-county-supervisors-](https://www.votebeat.org/arizona/2023/11/29/arizona-cochise-county-supervisors-indicted-refusing-certify-2022-election/)
22 [indicted-refusing-certify-2022-election/](https://www.votebeat.org/arizona/2023/11/29/arizona-cochise-county-supervisors-indicted-refusing-certify-2022-election/) (attached hereto as Attachment 3).

23 6. To my knowledge, the Arizona Attorney General is still pursuing that case.
24 *See* Attorney General Mayes Releases Statement On Rulings in Cochise County Election
25 *Interference Case*, Arizona Attorney General Kris Mayes (Jun. 18, 2024)
26 [https://www.azag.gov/press-release/attorney-general-mayes-releases-statement-rulings-](https://www.azag.gov/press-release/attorney-general-mayes-releases-statement-rulings-cochise-county-election)
27 [cochise-county-election](https://www.azag.gov/press-release/attorney-general-mayes-releases-statement-rulings-cochise-county-election) ("While the defendants are innocent until proven guilty, as are all
28 defendants in our criminal justice system, my office is prepared to move forward with this

1 case and pursue justice for the people of Arizona.”) (attached hereto as Attachment 4).

2 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
3 is true and correct.

4 Executed on this 2nd day of August 2024.

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6 By: /s/ Brennan A.R. Bowen

7 Brennan A.R. Bowen
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Attachment 1



Republican-controlled Arizona county refuses to certify 2022 election

Politics Nov 28, 2022 1:37 PM EDT

PHOENIX (AP) — Republican officials in a **rural Arizona county** refused Monday to certify the 2022 election ahead of the deadline amid pressure from prominent Republicans to reject a vote count that had Democrats winning for U.S. Senate, governor and other statewide races.

State election officials have vowed to sue Cochise County if the board of supervisors misses Monday's deadline to approve the official tally of votes, known as the canvass. The two Republican supervisors delayed the canvass vote until hearing once more about concerns over the certification of ballot tabulators, though election officials have repeatedly explained that the equipment is properly approved.

Democratic election attorney Marc Elias vowed on Twitter to sue the county. Sophia Solis, a spokeswoman for **Secretary of State Katie Hobbs**, did not immediately comment. Hobbs's office has previously vowed to sue the county if it misses the deadline.

Republican supervisors in Mohave County postponed a certification vote until later Thursday after hearing comments from residents angry about problems with ballot printers in Maricopa County.

Election results have largely been certified without issue in jurisdictions across the country. That's not been the case in Arizona, which was a focal point for efforts by former President Donald Trump and his allies to overturn the 2020 election and push false narratives of fraud.

Arizona was long a GOP stronghold, but Democrats won most of the highest profile races over Republicans who aggressively promoted Trump's 2020 election lies. **Kari Lake**, the GOP candidate for governor who lost to Hobbs, and Mark Finchem, the candidate for secretary of state, have refused to acknowledge their losses. They blame Republican election officials in Maricopa County for a problem with some ballot printers.

READ MORE: Post-election misinformation targets Arizona and Pennsylvania

Navajo County, a rural Republican-leaning county, voted unanimously to certify after the county attorney warned supervisors they could be sued if they didn't. In conservative Yavapai County, residents cited problems in Maricopa County in urging the Board of Supervisors not to approve the election results. The meeting was ongoing.

Republican supervisors in Mohave County said last week that they would sign off Monday but wanted to register a protest against voting issues in Maricopa County. In Cochise County, GOP supervisors had demanded that the secretary of state prove vote-counting machines were legally certified before they will approve the election results.

State Elections Director Kori Lorick has said the machines are properly certified for use in elections. She wrote in a letter last week that the state would sue to force Cochise County supervisors to certify, and if they don't do so by the deadline for the statewide canvass on Dec. 5, the county's votes would be excluded. That move threatens to flip the victor in at least two close races — a U.S. House seat and state schools chief — from a Republican to a Democrat.

Lake has pointed to problems on Election Day in Maricopa County, where printers at some vote centers produced ballots with markings that were too light to be read by on-site tabulators. Lines backed up amid the confusion, and Lake says an unknown number of her supporters

may have been dissuaded from voting as a result.

She filed a public records lawsuit last week, demanding the county produce documents shedding light on the issue before voting to certify the election on Monday. Republican Attorney General Mark Brnovich has also demanded an explanation ahead of the vote.

The county responded on Sunday, saying nobody was prevented from voting, and 85 percent of vote centers never had lines longer than 45 minutes. Most vote centers with long lines had others nearby with shorter waits, county officials said.

The response blamed prominent Republicans, including party chair Kelli Ward, for sowing confusion by telling supporters on Twitter not to place their ballots in a secure box to be tabulated later by more robust machines at county elections headquarters.

The county said that just under 17,000 Election Day ballots were placed in those secure boxes and all were counted. Only 16 percent of the 1.56 million votes cast in Maricopa County were made in-person on Election Day. Those votes went overwhelmingly for Republicans.

The Republican National Committee and the GOP candidate for Arizona attorney general, Abraham Hamadeh, filed an election challenge in his race, which is slated for an automatic recount with Hamadeh trailing by 510 votes.

Ward has urged supporters to push their county supervisors to delay a certification vote until after an afternoon scheduling hearing in the Hamadeh case.

By — Jonathan J. Cooper, Associated Press

Attachment 2

POLITICS

Last Arizona County certifies election results

By Kimberly Baker
December 7, 2022 / 5:15 PM MST / CBS News



Officials in Cochise County, Arizona, on Thursday certified the results of the county's 2022 midterm elections during an emergency meeting, after a superior court judge ordered the board of supervisors to meet and certify the results immediately.

The board of supervisors voted 2-0 to accept the results of the election, despite initially delaying the certification earlier this week and missing Monday's deadline. Ann English, a Democrat, and Peggy Judd, a Republican, voted in favor of certification but the board's third member, Republican Tom Crosby did not attend the meeting.

The court order came days after Republicans on the board voted Monday to not certify the results in a move that risked the exclusion of more than 47,000 Arizona voters from the state's final tally. That prompted lawsuits from the secretary of state's office and an advocacy group.

Arizona Governor Election

Updated: **Dec 30, 8:14 AM** 99% in Exit Poll +



Full Governor Results >

Democratic Governor-elect Karla Hobbs, in her capacity as Secretary of State, sued the county to certify the vote so her office can complete the statewide canvass by Dec. 8, the last possible day allowed under state law.

"We have an obligation to see that our elections are fair and good," said Peggy Judd, the Republican vice-chair of the board of supervisors, during Thursday's meeting. The second GOP board member Tom Crosby was not present at the meeting.

Judd said she was both "comfortable" and "uncomfortable" following the judge's order to move forward with certification of the results. "I feel I must because of a court ruling and because of my own health and situations that are going on in our life, I feel like I must follow what the judge asked us to do."



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In a tweet, Hobbs said the court decision "was a win for Arizona's democracy and ensures that all Arizonans will have their votes counted." She added that the state certification will begin as scheduled on Monday.

Hobbs defeated Republican Karl Lake during the November general election by 17,116 votes. Lake, who pushed lies that the 2020 election was stolen from Donald Trump on the campaign trail, has already filed lawsuits alleging election laws were broken in Arizona.

Lake has signaled that she will pursue further legal campaign challenges. She is scheduled to speak at a conservative event in Phoenix later this month. Meanwhile, Hobbs announced on Wednesday that her public inauguration as the next governor of Arizona will take place on Jan. 5, 2023.

More from CBS News

Karl Lake wins GOP primary for closely watched Arizona Senat...



Vance tours U.S.-Mexico border in Arizona, hitting Harris on...



Trial judge remakes control of Trump 2020 election case after...



Harris to campaign with VP pick in battleground states next week



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Attachment 3



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Two Cochise County supervisors indicted for refusing to certify midterm election

Arizona Attorney General Kris Mayes announced a state grand jury has indicted Republican Cochise County Supervisors Tom Crosby and Peggy Judd with two felony charges of conspiracy and election interference.

By Jen Fifield | November 29, 2023, 11:54am MST | Updated: November 29, 2023, 4:38pm MST

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An Arizona grand jury has indicted Cochise County Supervisors Peggy Judd (left) and Tom Crosby (right) for refusing to certify the county's 2022 election. The third supervisor, Ann English (center), was not indicted after voting to certify. | (Image courtesy of Cochise County Government)

Votebeat is a nonprofit news organization reporting on voting access and election administration across the U.S. [Sign up for our free newsletters here.](#)

This article has been updated throughout with reactions and additional details.

Attorney General Kris Mayes on Wednesday announced that an Arizona grand jury has indicted Cochise County Supervisors Tom Crosby and Peggy Judd for conspiracy and interference with an election officer, both felonies.

Crosby and Judd, the two Republicans on the three-member board of the southern Arizona county, both refused to certify, or canvass, the county's election by the Nov. 28, 2022 deadline in state law, twice voting against the canvass.

The Nov. 27 [indictments in Maricopa County Superior Court](#) came after the supervisors were ordered to appear at a state grand jury hearing on Nov. 13, under

subpoenas issued by Mayes' office in October. Judd's subpoena was first reported by Votebeat.

The indictment alleges that on or between Oct. 11, 2022 and Dec. 1, 2022, Judd and Crosby "conspired to delay the canvass of votes cast" and "knowingly interfered with the Arizona Secretary of State's ability to complete the statewide canvass," according to a news release from the Attorney General's Office.

"The repeated attempts to undermine our democracy are unacceptable," Mayes wrote. "I took an oath to uphold the rule of law, and my office will continue to enforce Arizona's elections laws and support our election officials as they carry out the duties and responsibilities of their offices."


Judd and Crosby did not immediately respond to calls for comment Wednesday. But lawyer Dennis Wilenchik, who is representing Crosby, told Votebeat that the indictment has no basis to it and is "political and part of the democratic party playbook to win elections and target conservative republicans."

"It is not based in fact, would never be brought in a fair and objective AG office, and was brought for some obvious purpose having nothing to do with any legitimate enforcement of the law by the AG that I can see," Wilenchik wrote in an email.

As the 2024 election approaches, many Cochise residents and voting rights groups such as All Voting is Local said they are hoping this serves as a deterrent for any county supervisors across the state who would consider attempting to interfere with the election.

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"This sends a message that you will not be held harmless," said All Voting is Local's Arizona director Alex Gulotta. "I really believe it may change people's behavior."



Cochise residents who were concerned about the certification fight in November celebrated that the supervisors were being held accountable.

Elisabeth Tyndall, chair of the Cochise County Democratic Party, praised Mayes, also a Democrat, for launching the investigation. She said it wasn't clear in November if anyone in the state would protect voters, who were afraid the certification delay meant their votes wouldn't be counted.

"When this first happened a lot of us felt very helpless because there was nowhere to go with this," Tyndall said. "I think people just have a really huge sense of relief that there is someone else out there that is watching and paying attention."

Conspiracy and interference with an election officer are both class 5 felonies in Arizona, punishable with up to two and a half years in jail.

Along with refusing to certify the election, Crosby and Judd also voted to fully hand-count the county's election results through its post-election audit, which a judge blocked after finding that was illegal. The efforts put the rural county in the national media spotlight and caused the elections director to eventually resign citing harassment. Those efforts may have been one of the topics of the investigation but were not part of Wednesday's indictments.

Mayes investigates at the request of Secretaries of State

Shortly after the supervisors refused to certify the election last November, Kori Lorick, then the state elections director working for former secretary of state and now Gov. Katie Hobbs asked Attorney General Mark Brnovich to investigate. When now-Secretary of State Adrian Fontes took office, he made the same request to Mayes, according to a letter obtained by Votebeat.

"My office considers their failure to do their non-discretionary statutory duty to canvass the election a matter of utmost importance for future elections," Fontes wrote.

On Wednesday, he sent a one-word tweet about the indictments: "Good."



In a statement to Votebeat he said that “Accountability is crucial in matters concerning our democracy.”

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Former Attorney General Terry Goddard, a Democrat, and former Maricopa County Attorney Rick Romley, a Republican, also wrote Brnovich and Cochise County Attorney Brian McIntyre asking them to investigate, writing that the supervisors’ actions threatened “to undo the proper administration and integrity of elections, disenfranchise thousands of voters and potentially even alter the results of some races.”

Cochise was the only county to bend to pressure from GOP leaders and activists from across the state who immediately after Election Day began claiming the results were inaccurate and asking county supervisors not to certify the election. Lawsuits from three Republican statewide candidates — gubernatorial candidate Kari Lake, attorney general candidate Abraham Hamadeh, and secretary of state candidate Mark Finchem — challenging the election results were eventually dismissed due to lack of evidence.

The indictment says that Crosby and Judd “knowingly interfered with the efforts” of then-Secretary of State Katie Hobbs, now governor, to complete the canvass of the election by preventing the board from canvassing within the time period required by law.

For the conspiracy charge, the indictment says that Judd and Crosby agreed with “one or more persons,” who aren’t named in the indictment, that at least one of them would delay the canvass and the transmission of the canvass to the Secretary of State’s Office.

Under Arizona law, county supervisors must vote to certify, or canvass, their county’s election within 20 days of a general election. It’s a ministerial act, which

means supervisors have no discretion as to whether to approve the results. The only exception is if there are any missing returns among polling place results — and even that only warrants a temporary postponement. The secretary of state, in turn, is required to certify the statewide election on the fourth Monday after the election.

Crosby and Judd initially voted to postpone the county's canvass until the Nov. 28 deadline, after residents spread unfounded claims that ballot tabulation machines used throughout the state were not properly certified. Kori Lorick, the state elections director, then personally provided documentation to the supervisors showing the machines were certified.

When the final deadline of Nov. 28 arrived, Crosby and Judd voted against certification. They did so against the advice of the County Attorney's Office, which had explained to them that they had a non-discretionary duty.

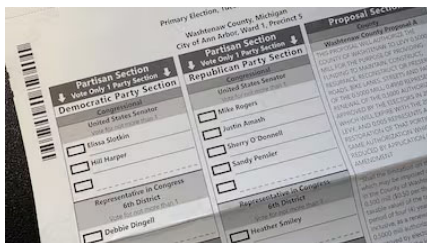
The Secretary of State's Office, at the time run by Hobbs, then sued the supervisors, who had to rely on private counsel to represent them on the matter because they had acted against the county attorney's advice. Their attorney did not appear in court. The trial court judge then forced them to reconvene and vote to certify.

They did, but the vote was still 2-0: Crosby did not show up.

Jen Fifield is a reporter for Votebeat based in Arizona. Contact Jen at jfifield@votebeat.org.



The Latest



Some partisan votes in Michigan's August primary election may never get counted

Absentee voters are most likely to be affected, but many will never find out about it.

By Hayley Harding | Today, 11:59am MST



Attachment 4

Attorney General Mayes Releases Statement On Rulings in Cochise County Election Interference Case

Tuesday, June 18, 2024

PHOENIX – Attorney General Kris Mayes released the following statement in response to rulings in the election interference case brought against Cochise County Supervisors Peggy Judd and Tom Crosby:

Today, Maricopa County Judge Geoffrey Fish denied motions by Cochise County Supervisors Tom Crosby and Peggy Judd to dismiss the charges against them or to send the matter back to the Grand Jury in the state's ongoing case against the defendants for allegedly engaging in felony conspiracy and election interference after the 2022 election.

This is a serious case, and the charges have merit. Today's ruling by the court supports that. While the defendants are innocent until proven guilty, as are all defendants in our criminal justice system, my office is prepared to move forward with this case and pursue justice for the people of Arizona.

Motions to Dismiss: Judd (<https://azag.us5.list-manage.com/track/click?u=cc1fad182b6d6f8b1e352e206&id=74ad9d9f40&e=b0dbe1a1e5>), Crosby. (<https://azag.us5.list-manage.com/track/click?u=cc1fad182b6d6f8b1e352e206&id=9f6b91377e&e=b0dbe1a1e5>) Motions to Remand: Judd (<https://azag.us5.list-manage.com/track/click?u=cc1fad182b6d6f8b1e352e206&id=504e6ec3e9&e=b0dbe1a1e5>), Crosby (<https://azag.us5.list-manage.com/track/click?u=cc1fad182b6d6f8b1e352e206&id=599b99186f&e=b0dbe1a1e5>).

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